



STUDY ON RIGHTS OF UNDER-TRIAL PRISONERS IN INDIA

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ABSTRACT

In India, the actors who played role in criminal justice system are victims, witnesses, prosecution, defence lawyer or investigation agencies. The sum of all contributes to a successful trial. The Criminal Justice System is based on the trial, and the person against whom such trial is going on is known as under trial prisoners which is continue till the guilt of person is prove. The under trial prisoner in India has consistently been a victim of exploitation and torture since independence, despite of various conventions and agreement at international level. The condition of jail is not that much good and it is overcrowded with many under trial prisoners. There is lack of medical services, free legal aid, speedy trial and violations of the right of under trial prisoner which decline the trust of under trials in criminal justice system. Due to the ineffective redress provision of Criminal Procedure Code, lack of accountability of police and prison officers, lack of jail monitoring system, dual scourge of custodial torture, and widespread corruption affect the rights of under trial prisoners. Despite of these, this paper study the reports of NCRB on under trial prisoners and various landmark rulings of the Supreme Court regarding rights of under trial prisoners. The methodology of paper is doctrinal one which is relying on both primary and secondary sources.

Key words- Under trial Prisoners, Criminal justice system, Human rights, Jail, Legal aid.

INTRODUCTION

Unconvicted prisoners are known as under-trial prisoners. In layman's terms, it can be said that the person who is detained while there is an investigation, inquiry, or trial into the crime for which he was apprehended. To define the word, the two components can be drawn (i) Accused in Jail (ii) period between arrest and outcome of case are essential to explain under trial prisoners. Under-trial prisoners are typically those whose bail is denied by court or after granting the bail that person failed to submit the bail bond and sureties. According to 78th Report of the Law Commission of India, 1979¹ defines "*under trial as a person who is in judicial custody or remand during investigation*". Earlier in 1898, the colonial law governs the under trial prisoners then later on when parliament enacted "*Criminal Procedure Code, 1973*" for administer the crimes in India. According to Section which deals with "issues concerning under trials, including the maximum period for which an under trial prisoner can be detained in police custody²". Due to increase the number of under trial prisoners the government amended the legislation by adding Section 436 A³

¹ Vivek Jain & Niranjana Sahoo, "*Justice System in Crisis: The Case of India's Undertrial Prisoners*", ORF Issue Brief (2015).

² Criminal Procedure Code, 1973, § 436, No. 2, Acts of Parliament, 1973 (India).

³ *Id.*, § 436A.



which stated that “should an accused be detained for more than half the maximum period of imprisonment associated with the crime, he/she has the right to be released on the presentation of personal bond”.

Prisoners are also human being and have certain rights. They are a necessary component of the nation’s criminal justice system, but they are currently facing unsatisfactory poor condition. Over the years, the prisons and the prisoners have not received enough attention and their condition is quite alarming in various jails. The most vulnerable population in these jails are the under trial prisoners who are on trial in court of law but face drastic life in jail. Bad poor condition of sanitation facilities and their health, overcrowding of jail, discrimination among prisoners based on their financial status, crime, religion and many more, lack of hygienic food, etc are the most prominent problems of prisoners in India.

The last few decades have brought increased attention to the need for prisons and prisoners reforms all over country. The disastrous circumstances in the jails, which violate the rights provide under Constitution of India, have been discussed by the Courts. Numerous commissions and expert organisations established by the Indian government have looked into the issue of prison administration. The presence of a high number of convicts awaiting trial and their extended stays show a slow rate of trials, which will cause our jails to become overcrowded. National Human Rights Commissions believe that police excessive and unlawful arrest. The primary causes of overcrowding in under trial detainees are judicial proceedings. The aim of the paper to study the Rights of under trial prisoners and their proper implementation with respect to data of NCRB report and various case laws.

UNDER TRIAL PRISONER’S RIGHTS: NATIONAL AND INTERNATIONAL SCENARIO

International Level

Article 10(1) of International Covenant on Civil and Political Rights states “*All persons deprived of their liberty shall be treated with humanity and with respect for the intrinsic dignity of a human person*”⁴ is the legally binding principal at the international level. It means that the State party has a positive obligation towards those persons who are particularly vulnerable as a result of their status as persons deprived of their liberty. It is the responsibility of the State to treat those persons deprived of liberty who are especially vulnerable”. The Committee believes that treating everyone who is deprived of their life with humanity and dignity is a basic, universally applicable principle, at the very least, is independent of a State party’s access to resources. The UN guidelines pertaining to the care of prisoners must be followed by all States parties⁵. The UN Committee mentioned the following factors in its general remarks as being pertinent when determining whether the detention conditions in any given nation are humane as same as the Covenant. First it discuss that whether the Standard Minimum Rules for the Treatment of Prisoners and other UN standards are being followed⁶. Second, information on the diet of inmates, both in terms of quantity and quality,

⁴ International Covenant on Civil and Political Rights, 1966.

⁵ Enforcement Officials, 1979.

⁶ General Comment No. 21, UN.



conditions of prison, such as the typical number of prisoners per cell, and health treatment⁷. The Constitutional Court in the Government of the *RSA and Others v Grootboom and Others*⁸, that those without access to food, clothing, or housing are denied these rights and that human dignity, freedom, and equality are the fundamental principles of our society. People can benefit from the other rights outlined in the Bill of Rights by being granted these socioeconomic rights.⁹ The UN Standard Minimum Guidelines for the Treatment of Prisoners are more relevant to this conversation¹⁰ that give detailing about what it is “generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.” It specifies in great depth, among other things, the kind of housing, food, instruction, and medical care that should be provided to prisoners. In its general remarks, the Human Rights Committee stressed that the primary goals of the prison system should be the reformation and social rehabilitation of the prisoner rather than merely seeking retribution.¹¹ Unless otherwise agreed, all parties shall adhere with applicable UN standards for the treatment of prisoners. The UN Committee in its general comments listed the following criteria to help determine whether the detention conditions in any particular nation adhere to the Human Rights Covenant:

1. Whether other UN guidelines, such as the Standard Minimum Rules for the Treatment of Prisoners, are being followed. What is generally regarded as good principles and practise in the treatment of prisoners and jail administration are outlined in a Standard Minimum Rule.¹², likewise-
 - a. Every prisoner has intrinsic worth and dignity, so they should all be treated with respect.
 - b. Discrimination based on race, colour, sex, language, religion, political opinion, nationality, socioeconomic status, or any other factor is prohibited under all circumstances.
 - c. Typically, the goal of a prison term or other measure that denies someone their liberty is to protect the community from crime and lower recidivism. These goals can only be achieved by making sure that, to the greatest extent possible, these people are reintegrated into society after being freed.
2. In its general remarks, the Human Rights Committee stressed that the goal of the prison system should primarily be the reformation and social rehabilitation of the prisoner, rather than merely seeking retribution¹³.

There is body of principles given by Human Rights Library in which these principles are apply for protection of all persons under any form of imprisonment or detention¹⁴.

⁷ Paul R Williams, “*Treatment of Detainees: Examination of Issues Relevant to Detention*”, United Nations.

⁸ *RSA and others v. Grootboom and others*, 2001 (1) SA 46.

⁹ General Comments No. 21, UN Human Rights Committee on Civil and Political Rights, 1992.

¹⁰ The Standard Minimum Rules, 1955.

¹¹ *Supra* note 6 at 4.

¹² United Nations Standard Minimum Rules for the Treatment of Prisoners, 1977.

¹³ Amar Pandey & Sonu Agarwal, *Unending Trial: The Misery of under Trial Prisoners*, 5 INT’L J.L. MGMT. & HUMAN, 434 (2022).

¹⁴ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. res. 43/173 (1988).



National Level

The numerous human rights tenets outlined in the International Bill of Rights are listed in Parts III and IV of the Indian Constitution. The fundamental human rights of the nation's inmates are protected by the Indian Constitution¹⁵. Some of are:

- It provides for that there is equality before the law and equal protection of laws¹⁶.
- It provides for the protection of certain freedoms¹⁷.
- It constitution provides for the protection of rights in respect of conviction of accused of offences¹⁸.
- It states “*No person shall be deprived of his life or personal liberty except according to procedure established by law*”¹⁹.
- It provides for the rights of arrested and detained persons²⁰.

Other than this there are some rights given to the under trials prisoners are-

1. Right to Speedy Trial- Right to speedy trial is a fundamental right of a prisoner implicit in article 21 of the Constitution. It ensures just, fair and reasonable procedure.

In the case of *AR Antulay vs. RS Nayak*²¹, the Supreme Court with regard to person convicted provides comprehensive guidelines. And further, court held that Right to speedy trial comes under ambit of Article 21. The court finally come to conclusion in favour of natural interest that when right to speedy trial of convict person has been violated then charges shall be quashed.

Another case of *Hussainara Khatoon v. Home Secretary, State of Bihar*²², it is landmark case, the Supreme Court of India held that under trials have the right to a speedy trial, and that the state is responsible for ensuring that this right is upheld. The court also ordered the release of thousands of under trials who had been held in custody for long periods without trial.

2. Rights against Inhuman Treatment of Prisoners- Personal dignity are integral to human rights. According to Article 21, no one may be deprived of their life or personal freedom unless a legal process has been followed. Personal liberty is a sacred and prized privilege as a result, according to the Constitution. The right to exist with dignity has been included in the definition of “life” or “personal liberty”, so it would also include a guarantee against torture and assault by the State or its agents. The Supreme Court of India has taken serious notice of the inhumane treatment of prisoners in a number of cases and has given the proper instructions to prison and police authorities in order to protect the rights of prisoners and people held by the police . There is right

¹⁵ Vijay Raghavan, “*Undertrial prisoners in India: long wait for justice*”, 51 EPW, 17-19 (2016).

¹⁶ INDIA CONST. art. 14.

¹⁷ *Id*, Art. 19.

¹⁸ *Id*, Art. 20.

¹⁹ *Id*, Art. 21.

²⁰ *Id*, Art. 22.

²¹ *AR Antulay vs. RS Nayak*, AIR 1988 SC 1531.

²² *Hussainara Khatoon v. Home Secretary, State of Bihar*, AIR 1979 SC 1369.



against torture given under Article 14 and 19 by Supreme Court. The court observed that “the treatment of a human being which offends human dignity, imposes avoidable torture and reduces the man to the level of a beast would certainly be arbitrary and can be questioned under Article 14²³”.

3. No handcuffing- Absent compelling reasons, handcuffing an individual who has been arrested or is being held pending prosecution is improper. “There is no justification for handcuffing the accused while transporting them from prison to court when it is discovered that they are intelligent individuals who give selflessly of their time to public causes, lack a tendency to flee, and were tried and found guilty of an offence that is subject to bail²⁴”.

4. Right to be informed and to meet Family members and friends- Article 21 provides right to life and personal liberty cannot be limited to just animal survival. More than just bodily survival is meant by it. A clear component of the Personal Liberty embodied in Article 21 is the right to interview one's relatives and friends. No person who is arrested shall be denied the right to consult with and be represented by counsel of his choosing, according to Article 22(1) of the Constitution .

These rights must be acknowledged and carefully protected because they are inalienable under Articles 21 and 22(1) of the Constitution. The following conditions must be met for these fundamental rights to be effectively enforced, according to the court :

1. A person who has been arrested and is being held in custody has the right, upon request, to have one friend, relative, or other person who is familiar to him or likely to be interested in his welfare informed, as far as is reasonably practical, of his arrest and the location of his detention .
2. The police officer must explain this right to the arrested person when he is taken to the police station.
3. The person who received notice of the detention must be noted in the diary. These safeguards against abuse of authority must be strictly upheld as a result of Articles 21 and 22(1)²⁵.

5. Right to have Interview with Lawyers- According to the court's ruling, the right to choose a lawyer belongs to the individual who was arrested from the moment of the arrest. The Supreme Court of India examined the extent of the prisoner's or detainee's right to have interviews with family members, friends, and attorneys in a number of cases .

6. Right to Legal Aid- The judiciary has favoured poor prisoners because of their poverty and inability to hire the lawyer of their choosing, even though the Indian Constitution does not expressly guarantee the right to legal aid. Free legal aid was made one of the Guiding Principles of State Policy under Article 39A of the Constitution by the 42nd Amendment Act of 1976. The Constitution's most significant and straightforward article on free legal aid is this one. Although this Article is listed as one of the Directive Principles of State Policy in Part IV of the Constitution and is not subject to judicial enforcement, the principles outlined therein are crucial to the

²³ D.K. Basu v. Union of India, 1977 (1) SCC 416.

²⁴ Prem Shanker Shukla v. Delhi Administration, AIR 1980 SC 1535.

²⁵ Ayushi Priyadarshini & Madhurika Durge, “Undertrial Prisoners in India”, 6 NLIU L. REV., 281 (2017).



governance of the Country. The state is required by Article 37 of the Constitution to incorporate these ideas into its legislative decisions. While Article 38 places a duty on the state to advance the well-being of the people by effectively securing and guarding a social order in which social, economic, and political justice inform all facets of national life. In order to carry out the constitutional mandate of Article 39-A, the parliament passed the Legal Services Authorities Act, 1987, which guarantees legal aid. Various state governments also created legal aid and advice boards and developed programmes for free legal aid and incidental matters. Legal aid has a broader range under Indian Human Rights law, and it is available not only in criminal cases but also in civil, revenue and administrative cases .

In the case of *Sheela Barse v. State of Maharashtra*²⁶, In this case, the Supreme Court of India held that under trials have the right to legal aid, and that the state is responsible for providing free legal aid to those who cannot afford it.

7. Right to Medical Assistance- The right to health is a crucial one. Every person has a right to the greatest level of physical and mental health that is reasonably achievable, according to the Indian Constitution. The Supreme Court in the land has ruled in a number of cases that the right to health treatment is an essential component of Article 21. The State is required by Article 21 of the Constitution to protect a person's life.

In case of *State of Maharashtra v. Christian Community Welfare Council*²⁷, In this case, the Supreme Court of India held that under trials have the right to adequate medical facilities, and that the state is responsible for ensuring that these facilities are provided.

ROLE OF JUDICIARY ON RIGHTS OF UNDER TRIAL PRISONERS

The Hon'ble Apex Court has repeatedly broadened the scope of fundamental rights and protected prisoners on a number of crucial fronts²⁸, including the right to a fair trial, access to justice, the right to a speedy trial, and most importantly the human rights front. These decisions have made sure those prisoners, including those who are awaiting trial, are granted these rights as fundamental rights under Part III²⁹ of the Constitution of India. On violation of these fundamental rights, the victim can directly approach the Supreme Court³⁰ and High Court³¹ .

Granting access to lawyers as well as the free legal services brought about by constitutional amendments and revisions to the Code of Criminal Procedure. The Supreme Court judgment of *Madhav Hatawaimarao v. State of Maharashtra*³² said that:

“Where the prisoner is disabled from engaging a lawyer, on reasonable grounds such as indigence situation, the Court shall, if the circumstances of the case, the gravity of the sentence, and the end

²⁶ Sheela Barse v. State of Maharashtra, AIR 1983 SC 378.

²⁷ State of Maharashtra v. Christian Community Welfare Council, AIR 2004 SC 7.

²⁸ A. Jeffry Andrew & M. Athma Rubavathi, *Issues of the Under Trial Prisoners and their Legal Status*, 3 Ind. Jou. of law & Leg. Re, (2021).

²⁹ INDIA CONST. Part III, art. 12-35.

³⁰ INDIA CONST. art.32.

³¹ INDIA CONST. art.226.

³² Madhav Hatawaimarao v. State of Maharashtra, AIR 1978 SC 1548.



of justice so requires assign competent counsel of for the prisoner's defence, provided the party does not object to that lawyer³³”.

The 1978 ruling served as a cornerstone in the provision of legal aid to the underprivileged that, at the time or now, are still ignorant of the rights that are available to them and who, as the majority of the nation battles poverty, lack the financial resources to access better legal services. There is an express provision in Constitution of India under Article 39-A³⁴ which provides for Equal Justice and free legal aid³⁵.

The State must ensure that the functioning of the legal system promotes justice on the basis of equal opportunity, and must specifically provide free legal aid through appropriate legislation or programmes or in any other way to ensure that no citizen is denied the opportunity to obtain justice because of their financial situation or other disabilities³⁶.

The Supreme Court of India has been protecting the rights of under trials through case of **Sunil Batra v. Delhi Administration**³⁷ where Justice Krishna Iyer said that:

“We have the knowledge that a sizable portion of the inmates are awaiting trial; they must present their case in court and are presumed innocent until found guilty. They are rendered criminals by virtue of being detained at Tihar Jail, which violates Articles 19 and 21 is tests for justice and reasonableness. How cruel it would be to visit a hospital for a check-up and leave with a new illness after being housed with infectious patients”³⁸.

In **R.D. Upadhyay v. State of AP**³⁹, The Supreme Court ruled that individuals charged with relatively minor offences, such as theft, cheating, etc., should be released from prison if they had been there for more than a year. It also ruled that undertrial murder suspects should be released on bail if their cases had been pending for two years or more. This ruling only applied to the cases that were open at the time it was issued.

The Supreme Court in **Bhim Singh v. Union of India**⁴⁰, The Court ordered the jurisdictional magistrate, chief judicial magistrate, and sessions judge to hold one sitting per week for two months in each jail or prison to identify cases eligible for bail under Section 436-A and to pass an appropriate order with respect to Section 436-A in the jail itself. This was done while acknowledging the issues with Section 436-A is implement. This was yet another one-off fix for a persistent issue in the system.

This decision results in the classification of prisoners inside the prison into various groups. The comparison of Justice Krishna Iyer to a hospital sums up the need for classification precisely. The

³³ *Supra* note 20 at 7.

³⁴ INDIA CONST. art.39-A.

³⁵ INDIA CONST. art.39-A, inserted through 42nd Constitutional Amendment Act, 1976.

³⁶ *Id.*

³⁷ Sunil Batra v. Delhi Administration, AIR 1980 SC 1579.

³⁸ *Id.*

³⁹ R.D. Upadhyay v. State of AP, (1996) 3 SCC 422.

⁴⁰ Bhim Singh v. Union of India, (2015) 13 SCC 603.



similar situation arose in the case of *Sanjay Suri v. Delhi Administration*⁴¹, the problem was that if the young prisoners weren't kept apart from the more experienced ones, their possibilities of becoming spoiled would be higher. The Supreme Court of India passed similar guidelines in this case of *Balram Singh Yadav v. State of UP*⁴², the court held that transfer of under-trial from one jail to another to avoid overcrowding is valid. In the case of *Zoii Nath Sarmah v. State of Assam*⁴³,

The superintendent's refusal to let the petitioners visit the prisoner was deemed illegal by the court. This Supreme Court decision was crucial in preventing the unwelcome restriction of administrative powers. The Supreme Court has occasionally intervened to protect those who are being tried from being deprived of their rights and from arbitrary government decisions. The Indian Union Government recently imposed a state of lockdown after COVID-19, a pandemic scenario, surfaced. The condition of jails was brought to the Supreme Court's attention. The court ruled that the different state governments should use a mechanism like parole for those who are currently awaiting trial for offences carrying a sentence of less than 7 years⁴⁴. During these times, a lot of bail was also posted on personal bonds because posting surety would have been risky for the surety's own life and because people were afraid of pandemics and therefore hesitant to leave their homes.

*K.Anbazhagan vs. Superintendent of Police*⁴⁵, Article 21 of the Constitution requires a free and impartial trial as a precondition. Justice should not only be done, but also be seen to have been done, according to established legal principles. The criminal justice system would be in jeopardy, judicial fairness would be in jeopardy, and the rule of law would be in jeopardy if the criminal trial was not free, fair, and without prejudice.

*Rajesh Ranjan Yadav @ Pappu Yadav vs. CBI*⁴⁶, while it is true that Article 21 is crucial because it protects the basic right to individual liberty, it is also necessary to strike a balance between that right and the interests of society. There can be fair limitations imposed on rights; none of them can be absolute. While it is true that the length of time an accused has spent in jail is one factor in determining whether or not to give bail, the court must also take other factors into account, such as the interest of society. As a result, the decision to give bail depends on the specifics of each case, and it cannot be said that just because a lengthy period of imprisonment has passed, bail must automatically be granted.

In *Sonadhar vs. The State of Chattisgarh*⁴⁷, the Supreme Court ordered the jail administration to provide information about undertrial prisoners who have been given bail but are still being held without charge. Therefore, the aforementioned information would assist the National Legal Services Authority of India (NALSA) in developing a plan to aid such prisoners. It is past time to change the law to eliminate monetary bail, which in a sense punishes destitution. According to the

⁴¹ Sanjay Suri v. Delhi Administration, AIR 1988 SC 414.

⁴² Balram Singh Yadav v. State of UP, 1991 Cr.L.J. 903.

⁴³ Zoii Nath Sarmah v. State of Assam, 1992 Cr.L.J. 2072.

⁴⁴ Hussainara Khatoun & Ors vs Home Secretary, State of Bihar, 1979 AIR 1369.

⁴⁵ K.Anbazhagan vs. Superintendent of Police AIR 2004 SC 525.

⁴⁶ Rajesh Ranjan Yadav @ Pappu Yadav vs. CBI AIR 2007 SC 451.

⁴⁷ Sonadhar vs. The State of Chattisgarh, SLP (CrI.) No. 529/2021.



circumstances of each case, the courts should have the discretion to grant not financial bail based on the nature of the offense, the accused ability to pay, and other pertinent factors.

In Re: Policy Strategy for Grant of Bail⁴⁸, The assumption of innocence and the right to a speedy trial have both been upheld by the Supreme Court, who has also argued for the release of undertrial prisoners by allowing the liberty to be exchanged for an admission of guilt during the plea negotiation process.

These are some cases in which Court provide rights to under trial prisoners and about their behaviour and condition in jail⁴⁹.

RECENT TRENDS ON UNDER TRIALS IN INDIA

The Recent Trends with regards to Under Trial prisoners is taken data from National Crime Bureau Report between the periods of 2017-2021. The data are⁵⁰-

Figure: Types of Offences Commit by Under Trial Prisoners

Year	Offence related to Human Body	Offence against Property	Rape	Dowry death	Liquor & Narcotics Drugs	Crime against women and SC/ST etc.	Arms/explosive
2017	1, 55, 294	70, 502	28, 159	13, 741	37, 135	3, 184	10, 350
2018	1, 60, 925	73, 240	32, 761	14, 144	38, 413	2,563	12, 138
2019	1, 64, 945	74, 713	34, 368	13, 287	41, 985	2, 627	11, 625
2020	1, 86, 114	77, 531	40, 545	14, 465	53, 369	4,394	13, 463
2021	2, 08, 595	94, 160	44, 134	14, 402	66, 881	4, 846	14, 677

Source: NCRB Report (2017-2021)

According to the NCRB report for the year 2017, there were 3, 08,718 undertrial prisoners in jails across India. The report also highlighted that the number of undertrial prisoners increased by about 9.4% from the previous year⁵¹.

⁴⁸ *In Re: Policy Strategy for Grant of Bail*, (Criminal) No.4/2021.

⁴⁹ Aparna Chandra & Keerthana Medarametla, “*Bail and Incarceration: The State of Under Trial Prisoners in India*”, Approaches to Justice in India, Shruti Vidyasagar et all (ed.), EBC, (2017), Available at- https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3156129.

⁵⁰ Aparna Chandra & Keerthana Medarametla, “*Bail and Incarceration: The State of Under Trial Prisoners in India*”, Approaches to Justice in India, Shruti Vidyasagar et all (ed.), EBC, (2017).

⁵¹ *Prison Statistics India-2017*, National Crime Bureau Report.



In the year 2018, there were 3, 23,537 undertrial prisoners in jails across India. The report also highlighted that the number of undertrial prisoners increased by about 10.4% from the previous year⁵².

In 2019, there were 3, 30, 487 undertrial prisoners in jails across India. The report also highlighted that the number of undertrial prisoners increased by about 2.15% from the previous year⁵³.

According to the 2020 NCRB report, there were 3, 71, 848 undertrial prisoners in jails across India. The report also highlighted that the number of undertrial prisoners increased by about 11.4% from the previous year⁵⁴.

According to the NCRB report for the year 2021, there were 4, 27, 165 undertrial prisoners in jails across India. The report also highlighted that the number of undertrial prisoners increased by about 14.9% from the previous year⁵⁵.

With respect to the reports of under trial prisoners last 5 years, it can be drawn that the crime done by under trial prisoners gradually increases year by year and their condition also not good in today's era. The condition of under trial prisoners in India has been a matter of concern for human rights organizations, as many of these individuals face overcrowding, lack of legal representation, poor hygiene, high rates of acquittal, inadequate medical care, and prolonged periods of detention without trial.

CONCLUSION AND SUGGESTIONS

According to the present situation in Indian prisons, there are far too many inmates there, most of whom are awaiting trial and come from low-income families. Years have passed, but the number of under trials continues rising, so this needs to be changed. India's under trial inmates experience a variety of difficulties, such as overcrowding, insufficient legal counsel, lengthy court procedures, and subpar prison conditions. Nearly half of the prisoners in India's prisons are awaiting trial, which emphasizes the severity of the problem, according to the National Crime Records Bureau's (NCRB) five-year study (2017–2021). Under trial prisoners' basic rights, such as the right to a fair and speedy trial and the right to humane treatment, are violated by their prolonged detention. It also places a heavy strain on the Indian judicial system, causing delays and backlogs. A number of actions have been taken to resolve these problems, including the implementation of legal aid programs, the introduction of alternative conflict resolution mechanisms, and the use of technology in the justice system. But much more work needs to be done to make things better. Judicial reforms are required to speed up the trial process and ensure that prisoners are not imprisoned for protracted periods of time without a fair trial in order to decrease the number of prisoners in India who are awaiting prosecution. To decrease the probability of recidivism, there should also be a stronger emphasis on rehabilitation and reintegrating released prisoners into society. To ensure that

⁵² *Prison Statistics India-2018*, National Crime Bureau Report.

⁵³ *Prison Statistics India-2019*, National Crime Bureau Report.

⁵⁴ *Prison Statistics India-2020* National Crime Bureau Report.

⁵⁵ *Prison Statistics India-2021*, National Crime Bureau Report.



prisoners' basic rights are protected and justice is served promptly and effectively, the problem of under trial prisoners in India needs urgent attention and a concerted effort from all stakeholders.

Thus, there are some suggestions with respect to under trial prisoners to improve their condition in India-

1. **Legal Aid:** Under trials should have access to legal aid to ensure that they are able to understand and navigate the legal system. The government should take steps to ensure that all under trials have access to legal representation, irrespective of their economic status.
2. **Speedy Trials:** Under trials in India often spend years in jail without a trial, which violates their fundamental rights. The government should take steps to expedite trials and ensure that under trials are not held in jail for an indefinite period. This could include increasing the number of judges, courtrooms and infrastructure to improve the efficiency of the judicial system.
3. **Alternatives to Incarceration:** Incarceration is not the only form of punishment available. The government should consider alternative forms of punishment such as community service or house arrest for non-violent offenders. This would not only reduce overcrowding in jails but also prevent the spread of diseases and other health hazards that arise from living in overcrowded conditions.
4. **Living Conditions:** The living conditions in Indian jails are often inhumane, and under trials are particularly vulnerable to abuse and neglect. The government should take steps to improve the living conditions in jails and ensure that under trials are treated with dignity and respect. This could include providing adequate medical care, clean water, proper sanitation facilities, and nutritious food.
5. **Monitoring and Oversight:** There is a need for greater monitoring and oversight of the Indian justice system to ensure that under trials are not subject to abuse, neglect, or mistreatment. The government should set up an independent body to monitor and oversee the functioning of the justice system, with a particular focus on the treatment of under trials.
6. **Technology-Driven Solutions:** Technology can be leveraged to speed up the judicial process, reduce manual intervention, and eliminate corrupt practices. The government should explore technology-driven solutions to address issues related to the condition of under trials in India. This could include introducing e-filing, video conferencing for hearings, and using artificial intelligence to help judges manage their workload.
7. **Reforms in Bail System:** The current bail system in India has been criticized for being stringent and often denying bail to under trials. The government should consider introducing reforms in the bail system, such as introducing personal recognizance bonds or allowing under trials to provide surety through property or assets.
8. **Reintegration:** The government should provide opportunities for reintegration into society for those who have served their sentence. This could include vocational training, education programs, and job placement services. Reintegration would help reduce recidivism and provide under trials with a second chance to build a better life for them.

These are some of the exhaustive suggestions that could be considered to improve the condition of under trial prisoners in India.